

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-6831

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

EDDIE EUGENE TURNER,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., District Judge. (CR-97-962, CA-98-3464)

Submitted: September 9, 1999 Decided: September 15, 1999

Before ERVIN, WILKINS, and HAMILTON, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Eddie Eugene Turner, Appellant Pro Se. Harold Watson Gowdy, III, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Eddie Turner seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2255 (West Supp. 1999) motion. We dismiss the appeal for lack of jurisdiction because Turner's notice of appeal was not timely filed.

Parties are accorded sixty days if the United States is a party after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The court's order dismissing Turner's § 2255 motion was entered on the docket on December 18, 1998. Turner filed a motion to reconsider, and it was denied on January 15, 1999. Turner then filed a motion to enlarge the time to file a response to the court's order. The court denied the motion on February 24, 1999. Turner's notice of appeal was dated June 9, 1999 and was received in the district court on June 11, 1999. Because Turner failed to file a timely notice of appeal and was not granted an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in

the materials before the court and argument would not aid the decisional process.

DISMISSED